

ROB BONTA, State Bar No. 202668
Attorney General of California
TYLER V. HEATH, State Bar No. 271478
Supervising Deputy Attorney General
GARRETT L. SEUELL, State Bar No. 323175
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-6144
Fax: (916) 324-5205
E-mail: Garrett.Seuell@doj.ca.gov
*Attorneys for Defendants J. Ware and
J. Avila*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

PAUL THOMAS,

2:22-cv-00177-EFB

Plaintiff,
Defendants.

**DEFENDANTS' NOTICE OF MOTION
AND MOTION TO COMPEL
DISCOVERY RESPONSES;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS' MOTION TO COMPEL
DISCOVERY RESPONSES;
SUPPORTING G. SEUELL
DECLARATION**

Judge: The Honorable
Edmund F. Brennan
Action Filed: January 27, 2022

TO PLAINTIFF PAUL THOMAS, *PRO SE*:

PLEASE TAKE NOTICE that under Federal Rules of Civil Procedure 34, 37, and the Court's discovery and scheduling order (ECF No. 22), Defendants request an order to compel Plaintiff to respond to Defendants' written discovery, specifically Defendants' request for production of documents (Set No. One).

PLEASE TAKE FURTHER NOTICE that under Local Rule 230(l), this motion is submitted on the record without oral argument unless otherwise directed by the Court.

111

This motion is based on this notice of motion and motion; the supporting memorandum of points and authorities; Defendants' concurrently filed motion to modify the Court's discovery and scheduling order; the pleadings and papers on file in this action; and such other matters as may properly come before the Court.

INTRODUCTION

Plaintiff Paul Thomas is a state prisoner proceeding *pro se* and pursuant to 42 U.S.C. § 1983 in this civil rights action. This motion concerns Plaintiff's failure to respond to properly propounded discovery requests – all of which were directed at discovery information related to Plaintiff's claim that Defendants Ware and Avila violated the Eighth Amendment by using excessive force on Plaintiff.

Given Plaintiff's refusal to respond to written discovery, Defendants request an order compelling Plaintiff to respond to all of Defendants' requests for production of documents.¹

RELEVANT PROCEDURAL HISTORY

Plaintiff filed this lawsuit against Defendants on January 27, 2022. (ECF No. 1.) The Court provided that the parties had until October 28, 2022, to conduct discovery and file any necessary motions to compel (the written discovery request deadline was August 26, 2022). (ECF No. 22 at p. 4.) On August 26, 2022, Defendants served Plaintiff with Defendants' Requests for Admission (Set No. One), Interrogatories (Set No. One), and Requests for Production of Documents (Set No. One). (Seuell Decl. at ¶ 2.) On September 1, 2022, Defendants received a letter from Plaintiff that stated that he had a new mailing address; he was transferred to a mental health crisis unit; his legal mail was lost upon his transfer; and his requested Defendants to resend their discovery requests. (*Id.*) On September 7, 2022, Defendants filed a motion to modify the discovery order by thirty (30) days to allow time for Plaintiff to receive his legal mail (ECF No. 23), and Defendants' resent their written discovery requests to Plaintiff. (*Id.*) On September 9, 2022, the Court granted Defendants' motion. (ECF No. 24.)

¹ Defendants' have concurrently requested a modification of the discovery and dispositive motion deadlines in the Court's discovery and scheduling order.

1 On October 19, 2022, Defendants received a letter from Plaintiff that stated, among other
2 things, he was “unable to meet Defendants request . . . of discovery due to California Health Care
3 Facility neglecting to provide [him] all of [his] legal documentation pertaining to this case.”
4 (Seuell Decl. at ¶ 3.) On November 8, 2022, Defendants received documents from Plaintiff
5 labeled, “Plaintiff’s response for Request for Production,” “Plaintiff’s response to Request for
6 Admission, Set One and Objection,” and “Plaintiff’s response for Interrogatories.” (*Id.*) After
7 reviewing Plaintiff’s responses in these documents, Defense counsel determined that Plaintiff did
8 not provide sufficient responses to **any** of Defendants’ requests for production of documents.
9 (*Id.*) Plaintiff’s responses simply repeated that he was “not currently in possession of requested
10 documents” and “will mail Defendants request on a production continuation once received.” (*Id.*)
11 On November 28, 2022, Defendants filed a motion to modify the motion to compel discovery
12 responses and dispositive motion deadlines by sixty (60) days based on Plaintiff’s representation
13 that he was not in possession of his legal material related to this case. (ECF No. 28) On
14 November 30, 2022, the Court granted Defendants’ motion. (ECF No. 29.)

15 On December 19, 2022, Defendants sent Plaintiff a letter that, among other things, stated
16 that Plaintiff's responses to Defendants' request for production of documents were insufficient
17 and Defendants requested that he send complete responses by January 9, 2023. (Seuell Decl. at
18 ¶ 5.) Defendants' letter also stated that if Plaintiff did not send complete responses by that date,
19 Defendants would file a motion to compel Plaintiff's discovery responses. (*Id.*) On January 9,
20 2023, Plaintiff filed a declaration that stated, "I have responded to Defendants request the prison
21 must be throwing the mail away. However, all discovery you have requested is available to you
22 through the CDCR S.O.M.S/Prison Records/C File. Ware, et al., Defendants are currently
23 employed at the institution that provide their requested discovery." (ECF No. 30.)

ARGUMENT

I. PLAINTIFF FAILED TO SUFFICIENTLY RESPOND TO DEFENDANTS' REQUESTS FOR PRODUCTION OF DOCUMENTS.

27 Defendants are entitled to conduct discovery by serving requests seeking the production of
28 documents. Fed. R. Civ. P. 34. Accordingly, on August 26, 2022, Defendants timely served

1 Plaintiff with requests for admissions, interrogatories, and requests seeking the production of
2 documents. (Seuell Decl. at ¶ 2.) The Federal Rules required Plaintiff to respond to Defendant's
3 discovery within thirty (30) days (plus three days for service by mail). Fed. R. Civ. P. 34(b)(2).
4 Plaintiff failed to properly respond to any of Defendants' requests for production of documents.
5 (*Id.* at ¶ 3.) For example, Defendants' Request for Production No. 3 requested Plaintiff to provide
6 all documents that support his claim that Defendants caused him injuries. (*Id.*) Plaintiff
7 responded, "I am not currently in possession of requested document which show injuries caused
8 by Defendants. I have requested the documents which support my claim that Defendants caused
9 me injury. I will mail Defendants request on a production continuation once received." (*Id.*)
10 Plaintiff provided essentially the same response for Request for Production No. 4 (request for
11 documents that support his claim for damages); Request for Production No. 5 (request for witness
12 statements related to his allegations against Defendants); Request for Production No. 6 (request
13 for communications related to his allegations against Defendants); Request for Production No. 8
14 (request for documents produced in discovery in any related criminal matter); and Request for
15 Production No. 9 (request for documents received in discovery in any related criminal matter).
16 (*Id.*) Plaintiff's responses failed to comply with Federal Rule of Civil Procedure 34(b) because,
17 although he implies that documents responsive to Defendants' request do exist, he did not provide
18 the requested documents or an objection to the requests. Fed. R. Civ. 34(b). All of Defendants'
19 requests are for information that is relevant to Plaintiff's claims for damages in this case or
20 Defendants' potential defenses, and Plaintiff has not provided any objection that would excuse
21 him from providing responsive documents or stating that no such responsive documents exist.
22 See Fed. R. Civ. P. 26(c)(1). And, Plaintiff's conclusory statement that "the prison must be
23 throwing the mail away" and "all discovery [Defendants] have requested is available to [them]"
24 is not a proper objection and was not timely made. (ECF No. 30.)

25 Defendants are entitled to know which documents in Plaintiff's prison files Plaintiff
26 contends support his claim for damages and injuries. Moreover, it is not readily apparent that
27 statements Plaintiff obtained from witnesses or communications he had with people outside
28 prison would be in prison files available to Defendants. Defendants should not be required to

1 scour Plaintiff's prison records and guess as to which ones might be responsive to their requests.
2 *See, e.g. Spence v. Kaur*, No. 2:16-CV-1828-TLN-KJN-P, 2019 WL 3842867, at *20 (E.D. Cal.
3 Aug. 15, 2019) (citing *Davidson v. Goord*, 215 F.R.D. 73, 77 (W.D.N.Y. 2003) and holding that
4 "defendant is entitled to discover what inmate appeals plaintiff contends exhausted his
5 administrative remedies as to the instant retaliation claims" and plaintiff's reference to central file
6 records in prison's possession was not sufficient).

7 When a party fails to produce documents, the party that served the discovery requests can
8 move to compel responses. Fed. R. Civ. P. 37(a)(3)(B)(iii), (iv). The failure to timely respond or
9 object constitutes a waiver of any objection to the discovery. *Richmark Corp. v. Timber Falling*
10 *Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992). Accordingly, Plaintiff waived his opportunity
11 to object to Defendants' requests for production, and the Court should compel him to answer
12 them without objection.

13 CONCLUSION

14 Plaintiff has refused to fully participate in the discovery process in this case. He failed to
15 properly respond to Defendants' requests for production of documents. The Court should compel
16 Plaintiff to respond to Defendants' discovery requests without objection and grant Defendants'
17 concurrently filed motion to modify the discovery and dispositive motion deadlines to allow
18 Defendants time to receive Plaintiff's complete responses and, if necessary, file a dispositive
19 motion.

20 Dated: January 27, 2023

Respectfully submitted,

21 ROB BONTA
22 Attorney General of California
23 TYLER V. HEATH
24 Supervising Deputy Attorney General

25 */s/ Garrett L. Seuell*
26 GARRETT L. SEUELL
27 Deputy Attorney General
28 *Attorneys for Defendant Ware and Avila*

DECLARATION OF GARRETT L. SEUELL

I, Garrett L. Seuell, declare:

1. I am a Deputy Attorney General licensed to practice before all courts of the State of California and before this Court. I am employed by the Office of the Attorney General and counsel of record for Defendants Ware and Avila in this case. I am competent to testify to the matters set forth in this declaration and, if called to do so, I would and could so testify.

2. On June 21, 2022, the Court issued a discovery and scheduling order that set the written discovery request deadline to August 26, 2022. (ECF No. 22.) On August 26, 2022, Defendants' timely served Defendants' Requests for Admission (Set No. One), Interrogatories (Set No. One), and Requests for Productions of Documents (Set No. One). A true and correct copy of Defendants' requests for production of documents is attached as **Exhibit A**. On September 1, 2022, I received a letter from Plaintiff that stated (1) his new mailing address is 7707 Austin Rd. Stockton, CA 95215; (2) he was transferred to a mental health crisis unit; (3) his "legal mail was lost upon [his] transfer"; and (4) he is requesting that counsel "send all legal inquiries to [your] new location and any most recent pertaining to Case No. 2:22-cv-00177-EFB." On September 7, 2022, I responded by resending the discovery requests and providing Plaintiff with a new thirty (30) day (plus three days for service by mail) deadline to respond, which made the discovery response deadline October 10, 2022. On September 7, 2022, Defendants filed a motion to modify the discovery and scheduling order to re-set the deadline for Defendants to complete all discovery to November 28, 2022, thirty (30) days after the October 28, 2022 deadline, based on Plaintiff's representation he was not in possession of his legal material related to this case. (ECF Nos. 22, 23.) On September 9, 2022, the Court granted Defendants' motion. (ECF No. 24.)

3. On October 19, 2022, I received a letter from Plaintiff that stated, among other things, he was “unable to meet Defendants’ request . . . of discovery due to California Health Care Facility neglecting to provide [him] all of [his] legal documentation pertaining to this case.” On November 8, 2022, I received documents from Plaintiff labeled, “Plaintiff’s response for Request for Production,” “Plaintiff’s response to Request for Admission, Set One and Objection,” and

“Plaintiff’s response for Interrogatories.” A true and correct copy of the Plaintiff’s discovery responses to Defendants’ request for production of documents is attached as **Exhibit B**.

4. On November 28, 2022, Defendants filed a motion to modify the motion to compel discovery responses and dispositive motion deadlines by sixty (60) days based on Plaintiff's representation he was not in possession of his legal material related to this case. (ECF No. 28.) On November 30, 2022, the Court granted Defendants' motion. (ECF No. 29.)

5. On December 19, 2022, Defendants sent Plaintiff a letter that, among other things, stated Plaintiff's responses to Defendants' request for production of documents were insufficient and requested that he send complete responses by January 9, 2023. A true and correct copy of Defendants' letter sent to Plaintiff on December 19, 2022 is attached as **Exhibit C**. Defendants' letter also stated that if Plaintiff did not send complete responses, Defendants would file a motion to compel Plaintiff's discovery responses, and that Plaintiff's discovery requests received by Defendants on November 27, 2022 were untimely because the deadline for written discovery requests was August 26, 2022, and the Court did not extend his deadline. On January 9, 2023, Plaintiff filed a declaration that stated, "I have responded to Defendants request the prison must be throwing the mail away. However, all discovery you have requested is available to you through the CDCR S.O.M.S/Prison Records/C File. Ware, et al., Defendants are currently employed at the institution that provide their requested discovery." (ECF No. 30.)

6. Plaintiff and I have exchanged multiple written correspondence in an attempt to meet and confer on the discovery disputes, but the parties have not been able to resolve the issue.

7. This request is not made for any improper purpose or to delay the case.

I declare under penalty of perjury that the foregoing is true. This declaration was executed in Sacramento, California on January 27, 2023.

/s/ **Garrett L. Seuell**
Garrett L. Seuell
Deputy Attorney General

EXHIBIT A

1 ROB BONTA, State Bar No. 202668
2 Attorney General of California
3 TYLER V. HEATH, State Bar No. 271478
4 Supervising Deputy Attorney General
5 GARRETT L. SEUELL, State Bar No. 323175
6 Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-6144
Fax: (916) 324-5205
E-mail: Garrett.Seuell@doj.ca.gov

Attn: GarrettStach@dcfj.org
Attorneys for Defendants J. Ware and
J. Avila

13 PAUL THOMAS,
14 Plaintiff
15 v.
16 WARE, et al.,
17 Defendant

2:22-cv-00177-TLN-EFB (PC)

**DEFENDANT'S REQUESTS FOR
PRODUCTION TO PLAINTIFF THOMAS,
SET ONE**

Judge: The Honorable Edmund F. Brennan
Trial Date: Not set.
Action Filed: January 27, 2022

PROPOUNDING PARTY: DEFENDANTS WARE

21 | RESPONDING PARTY: PLAINTIFF PAUL THOMAS

22 SET NO.: ONE

Under Federal Rule of Civil Procedure 34 and the Court's Discovery and Scheduling Order (ECF No. 22), you are required to respond to each of the following requests for production of documents separately and fully by mailing written responses and documents to Garrett L. Seuell, attorney for Defendants, within thirty (30) days (plus three days for service by mail) from the date

²⁷ ²⁸ ¹ In an attempt to determine if Plaintiff is represented by counsel in any related criminal matter, Defendants' counsel contacted the Sacramento County Superior Court Criminal Records Department on August 25, 2022, and was told no defense counsel was listed in any of Plaintiff's pending criminal cases.

1 of mailing indicated on the accompanying proof of service, as required by Federal Rule of Civil
2 Procedure 34. In addition, you are required to produce all documents within your possession or
3 control, or in the possession, custody, or control of the persons associated with you. These
4 documents shall be mailed to the Office of the Attorney General, 1300 I Street, P.O. Box 944255,
5 Sacramento, CA 94244-2550.

6 As used in this Request for Production of Documents, the term DOCUMENT or
7 DOCUMENTS shall include, but not be limited to, any kind of written, graphic, or recorded
8 matter (including originals, copies, and drafts and both sides thereof), such as paper, books,
9 letters, medical records, photographs, posters, objects, correspondence, facsimiles, memoranda,
10 notes, transcripts, reports, witness statements, opinions, evaluations, press releases, magazine or
11 newspaper articles, manuals, contracts, agreements, statistical records, journals, desk calendars,
12 appointment books, diaries, lists, tabulations, summaries, sound recordings, computer printouts,
13 electronic mail, computer disks, audio and video tapes or any other media, all records kept by
14 electronic, photographic, or mechanical means, and things similar to any of the foregoing,
15 however denominated, dated, produced, generated, or received.

16 As used in this Request for Production of Documents, the term COMMUNICATIONS
17 refers to any exchange of information between or among two or more persons including, but not
18 limited to, written contact by letter, memorandum, email, text, voicemail, Instagram, Facebook,
19 or other social media, facsimile, or otherwise.

20 If you consider any document to be excluded from production on grounds of attorney-client
21 privilege, attorney work-product doctrine, or any other privilege, immunity, or doctrine, you are
22 required to include in the written response a list of all documents so identified by providing the
23 date of each such document; its general character and general subject matter; names, titles, and
24 addresses of the author and recipient; name, title, and address of each other person who received a
25 copy of the document; and the grounds upon which you believe the document to be exempt from
26 production.

27 If you object to any of the following requests for production of documents, or any portion
28 thereof, you must state with specificity the reasons for your objections. If objection is made to

1 only a part or portion of any request for production, the part or portion shall be specified, and the
2 remainder shall be produced for inspection and copying.

3 If you have at any time relinquished possession, custody or control of, or destroyed any
4 document falling within the scope of this demand, you are requested to identify each such
5 document, and, where any such document still exists, also identify the person or persons, if any,
6 by name, address, and telephone number, who currently has or might have custody, possession, or
7 control thereof.

8 **REQUESTS FOR PRODUCTION**

9 **REQUEST FOR PRODUCTION NO. 1:**

10 Produce all DOCUMENTS related to the exhaustion of administrative remedies for your
11 claims against Defendants in your Complaint (ECF No. 1).

12 **RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1:**

13

14

15 **REQUEST FOR PRODUCTION NO. 2:**

16 Produce all DOCUMENTS related to your interaction with custody staff on July 18, 2021,
17 at approximately 1700 hours, as alleged in YOUR Complaint (ECF No. 1).

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

19

20

21 **REQUEST FOR PRODUCTION NO. 3:**

22 Produce all DOCUMENTS which support your claim that Defendants caused you injuries.

23 ///

24 ///

25 ///

26

27

28

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

2

3

4

5

6

7

8

9 **REQUEST FOR PRODUCTION NO. 4:**

10 Produce all DOCUMENTS which support your claim for damages in the Complaint (ECF
11 No. 1).

12 **RESPONSE FOR REQUEST FOR PRODUCTION NO. 4:**

13

14

15 **REQUEST FOR PRODUCTION NO. 5:**

16 Produce all witness statements that you have related to your allegations against Defendants
17 in the Complaint (ECF No. 1).

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

19

20

21 **REQUEST FOR PRODUCTION NO. 6:**

22 Produce all COMMUNICATIONS regarding your allegations against Defendants in the
23 Complaint (ECF No. 1). This request excludes any communications you have had with your
24 attorney in any related criminal matter.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

26

27

28

1 **REQUEST FOR PRODUCTION NO. 7:**

2 Produce all DOCUMENTS describing your allegations against Defendants in the
3 Complaint (ECF No. 1).

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

5
6
7
8
9
10 **REQUEST FOR PRODUCTION NO. 8:**

11 Produce all DOCUMENTS you have produced in any related criminal matter.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

13
14
15 **REQUEST FOR PRODUCTION NO. 9:**

16 Produce all DOCUMENTS you have received in discovery in any related criminal matter.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

18
19
20
21 Dated: August 26, 2022

Respectfully submitted,

22 ROB BONTA
23 Attorney General of California
24 TYLER V. HEATH
25 Supervising Deputy Attorney General

26 /s/ Garrett L. Seuell
27 GARRETT L. SEUELL
28 Deputy Attorney General
 Attorneys for Defendant Ware and Avila

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: Paul Thomas v. Ware, et al.
No.: 2:22-cv-00177-TLN-EFB (PC)

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On August 26, 2022, I served the attached **DEFENDANT'S REQUESTS FOR PRODUCTION TO PLAINTIFF THOMAS, SET ONE** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Paul Anthony Thomas, AZ-2563
California State Prison, Los Angeles County
P.O. Box 4610
Lancaster, CA 93539-4610

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 26, 2022, at Sacramento, California.

D. Jones
Declarant

Adrei
Signature

SA2022301369
36498316.docx

EXHIBIT B

PLAINTIFFS RESPONSE FOR REQUEST FOR PRODUCTION

PAUL THOMAS

PLAINTIFF

v.

WARE, et al.,

DEFENDANTS.

1 2:22-cv-00177-TLN-

DEFENDANTS REQUEST FOR PRODUCTION

2 3 PLAINTIFFS RESPONSE FOR REQUEST FOR PRODUCTION

4 REQUEST FOR PRODUCTION NO.1:

SET ONE

5 PRODUCE ALL DOCUMENTS RELATED TO THE EXHAUSTION OF

6 ADMINISTRATIVE REMEDIES FOR YOUR CLAIMS AGAINST

7 DEFENDANTS IN YOUR COMPLAINT (ECF NO.1)

8 RESPONSE TO REQUEST FOR PRODUCTION NO.1:

9 I AM NOT CURRENTLY IN POSSESSION OF ANY OF THE DOCUMENTS RELATED

10 TO THE EXHAUSTION OF MY ADMINISTRATIVE REMEDIES FOR

11 MY CLAIMS AGAINST DEFENDANTS AT THIS TIME. I HAVE

12 REQUESTED FOR THE SAID DOCUMENTS AND AM CURRENTLY

13 AWAITING TO RECEIVE ALL DOCUMENTS RELATED TO DEFENDANT

14 REQUEST. I WILL MAIL DOCUMENTS TO DEFENDANTS ON A

15 PRODUCTION CONTINUATION, ONCE RECEIVED. YOU CAN ALSO

16 CONTACT (CDCR) CALIFORNIA DEPARTMENT OF CORRECTIONS

17 REHABILITATION AND REQUEST DOCUMENTS PERTAINING TO

18 THE EXHAUSTION OF REMEDIES AT THE ADMINISTRATIVE LEVEL

19 REQUEST FOR PRODUCTION NO.2:

20 PRODUCE ALL DOCUMENTS RELATED TO YOUR INTERACTION WITH

21 CUSTODY STAFF ON JULY 18, 2021, AT APPROXIMATELY 1700

22 HOURS, AS ALLEGED IN YOUR COMPLAINT

23 RESPONSE TO REQUEST FOR PRODUCTION NO.2:

24 I AM NOT CURRENTLY IN POSSESSION OF ALL DOCUMENTS

25 RELATED TO MY INTERACTION WITH CUSTODY STAFF ON JULY

26 18, 2021 I HAVE REQUESTED FOR THE DOCUMENTS

27 PERTAINING TO MY INTERACTIONS WITH CUSTODY STAFF ON

28 JULY 18, 2021. I WILL MAIL DEFENDANTS DOCUMENTS

ON PRODUCTION CONTINUATION ONCE RECEIVED. DEFENDANT

CAN ALSO CONTACT (CDCR) CALIFORNIA DEPARTMENT OF

CORRECTIONS & REHABILITATION

P6 #1 x PAUL A. THOMAS

Sign x Paul A. Thomas

x DATE 09/19/2022

PLAINTIFFS RESPONSE FOR REQUEST FOR
PRODUCTION

- 1 REQUEST FOR PRODUCTION No. 3:
- 2 PRODUCE ALL DOCUMENTS WHICH SUPPORT YOUR CLAIM THAT
- 3 DEFENDANTS CAUSED YOU INJURIES.
- 4 RESPONSE TO REQUEST FOR PRODUCTION No. 3.
- 5 I AM NOT CURRENTLY IN POSSESSION OF REQUESTED DOCUMENT
- 6 WHICH SHOW INJURIES CAUSED BY DEFENDANTS I HAVE
- 7 REQUESTED THE DOCUMENTS WHICH SUPPORT MY CLAIM
- 8 THAT DEFENDANTS CAUSED ME INJURY. I WILL MAIL
- 9 DEFENDANTS REQUEST ON A PRODUCTION CONTINUATION ONCE
- 10 RECEIVED. DEFENDANTS CAN ALSO REQUEST DOCUMENTS
- 11 PERTAINING TO MY CLAIM THAT DEFENDANTS CAUSED ME
- 12 INJURIES. FROM (CDCR) CALIFORNIA DEPARTMENT OF
- 13 CORRECTIONS & REHABILITATION
- 14 REQUEST FOR PRODUCTION No. 4
- 15 PRODUCE ALL DOCUMENTS WHICH SUPPORT YOUR CLAIM.
- 16 FOR DAMAGES IN THE COMPLAINT.
- 17 RESPONSE FOR PRODUCTION No. 4.
- 18 I AM NOT CURRENTLY IN POSSESSION OF DEFENDANTS
- 19 REQUEST FOR PRODUCTION No. 4 I HAVE REQUESTED
- 20 ALL DOCUMENTS WHICH SUPPORT MY CLAIM FOR DAMAGES
- 21 AND WILL MAIL IT TO DEFENDANT VIA MAIL ONCE RECEIVED
- 22 DEFENDANT MAY ALSO REQUEST FOR DOCUMENTS PERTAINING
- 23 TO DAMAGES WHICH SUPPORT MY CLAIM VIA (CDCR)
- 24 CALIFORNIA DEPARTMENT OF CORRECTION & REHABILITATION
- 25 REQUEST FOR PRODUCTION No. 5
- 26 PRODUCE ALL WITNESS STATEMENTS THAT YOU HAVE RELATED
- 27 TO YOUR ALLEGATIONS AGAINST DEFENDANTS IN THE COMPLAINT
- 28

DATE 09/19/22

PG#2

x PAULA THOMAS x Paul Thomas

PLAINTIFFS RESPONSE FOR REQUEST FOR PRODUCTION

1 RESPONSE FOR PRODUCTION NO. 5:

2 I DO NOT CURRENTLY HAVE ALL DOCUMENTS PERTAINING TO MY
3 WITNESSES STATEMENT RELATED TO MY CLAIM AGAINST
4 DEFENDANTS I HAVE REQUESTED FOR SAID DOCUMENTS AND AM
5 CURRENTLY AWAITING TO RECEIVE THOSE DOCUMENTS. I WILL
6 MAIL DOCUMENTS TO DEFENDANTS ONCE RECEIVED. DEFENDANT
7 CAN ALSO CONTACT (CDCR) CALIFORNIA DEPARTMENT OF
8 CORRECTIONS AND REQUEST THE REQUESTED DOCUMENTS
9 REQUEST FOR PRODUCTION NO. 6:

10 PRODUCE ALL COMMUNICATIONS REGARDING YOUR ALLEGATIONS
11 AGAINST DEFENDANTS IN THE COMPLAINT. THIS REQUEST
12 EXCLUDES ANY COMMUNICATIONS YOU HAVE HAD WITH YOUR
13 ATTORNEY IN ANY RELATED CRIMINAL MATTER.

14 RESPONSE FOR PRODUCTION NO. 6:

15 I DO NOT CURRENTLY HAVE ALL COMMUNICATIONS REGARDING
16 MY ALLEGATIONS I HAVE REQUESTED ALL COMMUNICATIONS FROM
17 (CDCR) CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILI-
18 TATION. ONCE RECEIVED I WILL MAIL TO DEFENDANTS. DEFENDANT
19 MAY ALSO REQUEST ALL COMMUNICATIONS REGARDING MY CLAIM
20 FROM (CDCR) CALIFORNIA DEPARTMENT OF CORRECTIONS
21 REQUEST FOR PRODUCTION NO. 7

22 PRODUCE ALL DOCUMENTS DESCRIBING YOUR ALLEGATIONS AGAINST
23 DEFENDANTS IN THE COMPLAINT

24 RESPONSE TO REQUEST FOR PRODUCTION NO. 7

25 I DO NOT CURRENTLY HAVE DEFENDANTS REQUEST FOR
26 DOCUMENTS DESCRIBING MY ALLEGATIONS AGAINST DEFENDANTS
27 I HAVE REQUESTED FOR SAID DOCUMENTS FROM (CDCR)
28 CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION
DEFENDANTS CAN ALSO REQUEST FOR THE REQUESTED DOCUMENTS
FROM THE (CDCR) CALIFORNIA DEPARTMENT OF CORRECTIONS
& REHABILITATION

PG#3

SEEN X PAUL A. THOMAS
PAUL A. THOMAS DATE 09/19/2027

PLAINTIFF'S RESPONSE FOR REQUEST FOR
PRODUCTION

1 REQUEST FOR PRODUCTION No. 8

2 PRODUCE ALL DOCUMENTS YOU HAVE PRODUCED IN AN
3 RELATED CRIMINAL MATTERS

4 RESPONSE FOR PRODUCTION No. 8:

5 I DO NOT CURRENTLY HAVE ALL DOCUMENTS I'VE PRODUCED
6 IN RELATED CRIMINAL MATTERS I'VE REQUESTED SAID
7 DOCUMENTATION FROM (CDCR) CALIFORNIA DEPARTMENT OF
8 CORRECTIONS & REHABILITATION AS WELL AS MICHAEL W. BIEN
9 ROSEN BIEN GALVAN & GRUNFELD LLP ATTORNEYS

10 DEFENDANTS CAN ALSO REQUEST DOCUMENTS PERTAINING TO
11 REQUEST ON PRODUCTION NO. 8 FROM (CDCR) CALIFORNIA
12 DEPARTMENT OF CORRECTIONS & REHABILITATION AND MICHAEL
13 W. BIEN ROSEN BIEN GALVAN & GRUNFELD LLP ATTORNEYS

14 REQUEST FOR PRODUCTION No. 9

15 I DO NOT CURRENTLY HAVE DEFENDANTS REQUEST
16 FOR PRODUCTION No. 9 I HAVE REQUESTED FOR SAID
17 DOCUMENTS AND AM CURRENTLY AWAITING. ONCE RECEIVED
18 I WILL MAIL IT TO DEFENDANTS VIA PRODUCTION
19 CONTINUATION DEFENDANTS CAN ALSO REQUEST THE
20 REQUESTED DOCUMENTS FROM (CDCR) CALIFORNIA
21 DEPARTMENT OF CORRECTIONS & REHABILITATION

22

23

24

25

26

27

28

PG#4

PAUL A. THOMAS

SIGNX 
PAUL A. THOMAS
DATE 09/19/2022

PAUL A. THOMAS HALZ-LOOS

CALIFORNIA HEALTH CARE
FACILITY
7707 AUSTIN RD
STOCKTON, CA 95215

CHCF
CA DEPARTMENT
OF CORRECTIONS
AND REHABILITATION

US POST



ZIP 94244-2550

041L12203723

CONFIDENTIAL
LEGAL
MAIL

DEPUTY ATTORNEY GENERAL
1300 I STREET, SUITE 125
P.O. BOX 944255
AGRICAMENTO, CA 94244-2550

3424432550 8004

3/19/64

22/02/64

22/02/64

EXHIBIT C



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 210-6144
Facsimile: (916) 324-5205
E-Mail: Garrett.Seuell@doj.ca.gov

December 19, 2022

Paul Anthony Thomas, AZ2563
California State Prison, Sacramento
P.O. Box 290001
Represa, CA 95671

RE: *Paul Thomas v. Ware, et al.*
USDC-Eastern District of California, Case No. 2:22-CV-00177-TLN-EFB (PC)

Dear Mr. Thomas:

This letter is to inform you that your Set No. One discovery requests (requests for admissions, interrogatories, and request for production of documents) with proof of service date of November 27, 2022, are untimely. Per the Court's Discovery and Scheduling Order (ECF No. 22), the deadline to serve written discovery requests was August 26, 2022. The Court did not extend your deadline. Defendants did respond to the untimely requests for admissions on December 8, 2022, as a courtesy to you. However, based on the untimeliness of your discovery requests, Defendants will not be responding to the interrogatories and request for production of documents, which Defendants did not receive until December 15, 2022.

Regarding Defendants' discovery requests, on August 26, 2022, Defendants served you with Set No. One requests for admissions, interrogatories, and request for production of documents. On September 1, 2022, I received a letter from you stating that, among other things, that you were transferred to a mental health crisis unit, and you could not respond to Defendants' discovery requests because your legal mail was lost during your transfer. On September 7, 2022, Defendants' file a motion to modify the Discovery and Scheduling Order (ECF No. 22) to allow Defendants to resend you their original discovery requests to you, given your representation that you did not have your legal material related to this case. The Court granted Defendants' request to allow them to reserve their discovery requests on you. Defendants reserved their discovery requests, and your responses were due October 10, 2022 (thirty (30) days after service, plus three (3) days for service by mail).

On October 14, 2022, I sent you a letter informing you that (1) I had not received your discovery responses, (2) you had waived all objections to those requests, and (3) I planned to file a motion to compel if I did not receive your responses by November 4, 2022. On October 17, 2022, I received a letter from you stating, among other things, you were still "unable to meet Defendants request [for] discovery" due to not having all your legal material, and you "put in a request for new copies of the documents requested." On November 8, 2022, I received discovery

Paul Anthony Thomas
September 2, 2022
Page 2

responses to Defendants' requests for admissions, partial responses to Defendants' interrogatories (nonresponsive to Interrogatories 1, 8, and 9), and no responses at all to Defendants' request for production of documents.

Please send your complete responses to Defendants' Set No. One interrogatories and request for production of documents by January 9, 2023, an additional twenty-one (21) days. If you fail to respond by that date, I plan to file a motion to compel discovery responses and request for sanctions.

Thank you in advance for your attention to this matter.

Sincerely,

/s/ Garrett L. Seuell

GARRETT L. SEUELL
Deputy Attorney General

For ROB BONTA
Attorney General

CERTIFICATE OF SERVICE

Case Name: Paul Thomas (AZ2563) v. Ware, et al. No. 2:22-cv-00177-TLN-EFB (PC)

I hereby certify that on January 27, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **DEFENDANTS' NOTICE OF MOTION AND MOTION TO COMPEL DISCOVERY RESPONSES;**
- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION TO COMPEL DISCOVERY RESPONSES;**
- **SUPPORTING G. SEUELL DECLARATION (Exhibits A – C)**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On January 27, 2023, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Paul Anthony Thomas (AZ-2563)
California State Prison - Sacramento
P.O. Box 290001
Represa, CA 95671

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on January 27, 2023, at Sacramento, California.

K. Jeffers
Declarant

/s/ K. Jeffers
Signature